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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,679	08/01/2001	Juliana H.J. Brooks	BLP:101 (a) US-CIP	6650

7590 08/19/2009
The Law Offices of Mark G. Mortenson
Post Office Box 310
North East, MD 21901-0310

EXAMINER

HANLEY, SUSAN MARIE

ART UNIT	PAPER NUMBER
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1651

MAIL DATE	DELIVERY MODE
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08/19/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/919,679	Applicant(s) BROOKS ET AL.	
	Examiner SUSAN HANLEY	Art Unit 1651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment and remarks filed 6/12/08 have been entered.

Claims 1-15 are pending.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

New Grounds of Rejection Based on the Amendment

Claim Rejections - 35 USC § 112

Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 has been amended to recite the limitation: "under conditions approximating those occurring in the chemical reaction system using the physical catalyst". Claim 13 has been amended to recite: "wherein said at least one frequency corresponds to an electromagnetic spectra pattern under conditionals approximating those occurring in the chemical reaction system using the physical catalyst". This newly added limitations constitute NEW MATTER because the concept of determining the electromagnetic spectral pattern under conditions approximating those occurring in the chemical reaction system is not disclosed in the specification as-filed.

The specification discloses that the at least one frequency of the spectral pattern is determined with the physical catalyst by itself. and not under conditions

approximating those occurring the chemical reaction system using the physical catalyst (specification p. 7, lines 7-8, lines 20-23. Thus, said new limitations are New Matter.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 13 are rejected because “approximating” is a relative term and no comparison is made in the claim or the specification

Claims 2-12, 14 and 15 are rejected because they are dependent claims that do not overcome the deficiencies of the rejected independent claim from which they depend.

The following rejections are withdrawn pending the result of the New Matter rejection *supra*.

Claims 1-4, 7-9 and 13 as rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tsutsui et al. (US 4,287,036; “Tsutsui”).

Claims 1-4 and 7-13 as rejected under 35 U.S.C. 103(a) as being unpatentable over Lichtin et al. (US 4,861,484) in view of Tsutsui et al. (US 4,287,036; “Tsutsui”).

Claims 1, 3, 4, 7, 8 and 10-14 as rejected under 35 U.S.C. 103(a) as being unpatentable over Pratt, Jr. (US 4,115,280; “Pratt”) in view of Vladimirov (1988, abstract only) and Cronheim (1937; abstract only).

Claims 1-4, 7-9 and 13 as rejected under 35 U.S.C. 102(b) as being clearly anticipated by Borsub et al. (1984).

Claims 1, 3-8 and 10-14 as rejected under 35 U.S.C. 102(b) as being clearly anticipated by Biscar et al. (1975).

Claims 1, 2, 3, 4, 9 and 13 as rejected under 35 U.S.C. 103(a) as being unpatentable over Mohr (US 6,217,712, based on the parent application 08/760,342) in view of website of the National High Magnetic Field Laboratory (downloaded 12/22/06).

Claims 11 and 15 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claims 1-6, 9, 10 and 12-14 stand rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a method for augmenting a physical catalyst that catalyzes the conversion of a reactant to a product, by the steps of a)-c) of claim 1 wherein the determined frequency is at least a duplicated frequency of the EM spectral pattern or a harmonic frequency of the duplicated EM spectral pattern and the physical catalyst is present in the chemical reaction system at the time of exposure to said frequency, does not reasonably provide enablement for a method for augmenting a physical catalyst that catalyzes the conversion of a reactant to a product, by the steps of a)-c) of claim 1 wherein the determined frequency can also be at least one frequency which copies at least one mechanism of said at least physical catalyst (part iii of claim

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13); or the chemical reaction system is irradiated prior to the addition of the physical catalyst (as in claim 11).

Claims 13 and 15 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUSAN HANLEY whose telephone number is (571)272-2508. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 571-272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susan Hanley/
Examiner, Art Unit 1651

/Sandra Saucier/
Primary Examiner, Art Unit 1651

Search Notes (continued)

Application/Control No.

09/919,679

Examiner

SUSAN HANLEY

Applicant(s)/Patent under
Reexamination

BROOKS ET AL.

Art Unit

1651

SEARCHED

Class	Subclass	Date	Examiner

INTERFERENCE SEARCHED

Class	Subclass	Date	Examiner

**SEARCH NOTES
(INCLUDING SEARCH STRATEGY)**

	DATE	EXMR
WEST: UPDATED	10/1/2007	SMH
WEST: UPDATED	7/16/2008	SMH
WEST: UPDATED	8/14/2009	SMH